

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

John J. Garrett,

Plaintiff,

vs.

B. Lee Thomas, et al.,

Defendants.

Civil Action No. 7:05-1542-HFF-WMC

ORDER

The plaintiff in this action contends that his complaint was filed in error because of illness. By motion filed June 27, 2005, he seeks to file an amended complaint which he contends does not raise any federal questions under ERISA. He also seeks a remand of the case to state court and a 120-day extension of time of certain deadlines in the scheduling order to give him an opportunity to retain counsel. The defendants filed their opposition to the motion on July 6, 2005.

After reviewing the pleadings and the proposed amended complaint, the court believes that a more reasonable explanation for the plaintiff's motion to amend is that he is now seeking to drop his ERISA claims to avoid federal jurisdiction.

Now, therefore,

IT IS ORDERED that the plaintiff's motion to remand this case back to state court based upon the proposed amended complaint is denied.

IT IS FURTHER ORDERED that the plaintiff's motion to amend is denied at this time. The plaintiff may renew his motion to amend at a later date if he so elects.

IT IS FURTHER ORDERED that the plaintiff's motion for a 120-day extension of the scheduling order deadlines is denied. The plaintiff is free to retain counsel at any

time. If counsel is retained, the court will entertain a motion for extension of time at that time.

IT IS SO ORDERED.

s/William M. Catoe
United States Magistrate Judge

July 8, 2005

Greenville, South Carolina